

ONGOING PROJECT FOR PJK

STATE OF WISCONSIN - LEGISLATIVE REFERENCE BUREAU

LRB

Research (608-266-0341)

Library (608-266-7040)

Legal (608-266-3561)

LRB

Insert for LRB-2081

2081/mols

RC; 769.205



if the [petition] or comparable pleading is filed before a [petition] or comparable pleading is filed in another State state or a foreign country if:

(1) the [petition] or comparable pleading in the other State state or foreign country is filed before the expiration of the time allowed in this State state for filing a responsive pleading challenging the exercise of jurisdiction by this State state;

(2) the contesting party timely challenges the exercise of jurisdiction in this State state; and

(3) if relevant, the other State state or foreign country is the home State state of the child.

769.205 **SECTION 205. CONTINUING, EXCLUSIVE JURISDICTION TO MODIFY CHILD-SUPPORT ORDER.**

(1) ~~1a~~ A tribunal of this ~~State state~~ that has issued a child-support order consistent with the law of this ~~State state~~ has and shall exercise continuing, exclusive jurisdiction to modify its child-support order if the order is the controlling order and:

(a) ~~1b~~ at the time of the filing of a request for modification this ~~State state~~ is the residence of the obligor, the individual obligee, or the child for whose benefit the support order is issued; or

(b) ~~1c~~ even if this ~~State state~~ is not the residence of the obligor, the individual obligee, or the child for whose benefit the support order is issued, the parties consent in a record or in open court that the tribunal of this ~~State state~~ may continue to exercise jurisdiction to modify its order.

(2) ~~1d~~ A tribunal of this ~~State state~~ that has issued a child-support order consistent with the law of this ~~State state~~ may not exercise continuing, exclusive jurisdiction to modify the order if:

(a) ~~1e~~ all of the parties who are individuals file consent in a record with the tribunal

of this ~~State~~ state, that a tribunal of another ~~State~~ state that has jurisdiction over at least one of the parties who is an individual or that is located in the ~~State~~ state of residence of the child may modify the order and assume continuing, exclusive jurisdiction; or

(b) ~~its~~ its order is not the controlling order.

(B) (3) ~~If~~ If a tribunal of another ~~State~~ state has issued a child-support order pursuant to the Uniform Interstate Family Support Act or a law substantially similar to that Act which modifies a child-support order of a tribunal of this ~~State~~ state, tribunals of this ~~State~~ state shall recognize the continuing, exclusive jurisdiction of the tribunal of the other ~~State~~ state.

(B) (4) ~~A~~ A tribunal of this ~~State~~ state that lacks continuing, exclusive jurisdiction to modify a child-support order may serve as an initiating tribunal to request a tribunal of another ~~State~~ state to modify a support order issued in that ~~State~~ state.

(B) (5) ~~A~~ A temporary support order issued ex parte or pending resolution of a jurisdictional conflict does not create continuing, exclusive jurisdiction in the issuing tribunal.

769.206 → RC; 769, 206
SECTION 206. CONTINUING JURISDICTION TO ENFORCE CHILD-SUPPORT ORDER.

(B) (1) ~~A~~ A tribunal of this ~~State~~ state that has issued a child-support order consistent with the law of this ~~State~~ state may serve as an initiating tribunal to request a tribunal of another ~~State~~ state to enforce:

(a) ~~the~~ the order if the order is the controlling order and has not been modified by a tribunal of another ~~State~~ state that assumed jurisdiction pursuant to the Uniform Interstate Family Support Act; or

(b) ~~a~~ a money judgment for arrears of support and interest on the order accrued before a determination that an order of a tribunal of another ~~State~~ state is the controlling order.

(B) (2) ~~A~~ A tribunal of this ~~State~~ state having continuing jurisdiction over a support order may

act as a responding tribunal to enforce the order.

SECTION 207. DETERMINATION OF CONTROLLING CHILD-SUPPORT ORDER.

(a) If a proceeding is brought under this ~~[Act]~~ [act] and only one tribunal has issued a child-support order, the order of that tribunal controls and must be so recognized.

(b) If a proceeding is brought under this ~~[Act]~~ [act], and two or more child-support orders have been issued by tribunals of this ~~State~~ state, another ~~State~~ state, or a foreign country with regard to the same obligor and same child, a tribunal of this ~~State~~ state having personal jurisdiction over both the obligor and individual obligee shall apply the following rules and by order shall determine which order controls and must be recognized:

(1) If only one of the tribunals would have continuing, exclusive jurisdiction under this ~~[Act]~~ [act], the order of that tribunal controls and must be so recognized.

(2) If more than one of the tribunals would have continuing, exclusive jurisdiction under this ~~[Act]~~ [act]:

(A) an order issued by a tribunal in the current home ~~State~~ state of the child controls; ~~but or~~

(B) if an order has not been issued in the current home ~~State~~ state of the child, the order most recently issued controls.

(3) If none of the tribunals would have continuing, exclusive jurisdiction under this ~~[Act]~~ [act], the tribunal of this ~~State~~ state shall issue a child-support order, which controls.

(c) If two or more child-support orders have been issued for the same obligor and same child, upon request of a party who is an individual or that is a support enforcement agency, a tribunal of this ~~State~~ state having personal jurisdiction over both the obligor and the obligee who is an individual shall determine which order controls under subsection (b). The request may be

SECTION[#]. CR; 769.210 *Insert 2*

SECTION 208. CHILD-SUPPORT ORDERS FOR TWO OR MORE OBLIGEEES.

In responding to registrations or [petitions] for enforcement of two or more child-support orders in effect at the same time with regard to the same obligor and different individual obligees, at least one of which was issued by a tribunal of another State state or a foreign country, a tribunal of this State state shall enforce those orders in the same manner as if the orders had been issued by a tribunal of this State state.

SECTION 209. CREDIT FOR PAYMENTS. A tribunal of this State state shall credit amounts collected for a particular period pursuant to any child-support order against the amounts owed for the same period under any other child-support order for support of the same child issued by a tribunal of this state, or another State state, or a foreign country.

769.210 **SECTION 210. APPLICATION OF [ACT] TO NONRESIDENT SUBJECT TO**

PERSONAL JURISDICTION. A tribunal of this State state exercising personal jurisdiction over a nonresident in a proceeding under this ^{chapter} ~~Act~~, under other law of this ~~State~~ state relating to a support order, or recognizing a foreign support order ~~of a foreign country or political subdivision on the basis of comity~~ may receive evidence from ~~another~~ outside this State state pursuant to ~~Section 316~~ ^{§. 769.316}, communicate with a tribunal of ~~another~~ outside this State state pursuant to ~~Section 317~~ ^{§. 769.317}, and obtain discovery through a tribunal of ~~another~~ outside this State state pursuant to ~~Section 318~~ ^{§. 769.318}. In all other respects, (Articles) 3 through 6 ~~do not apply~~, and the tribunal shall apply the procedural and substantive law of this ~~State~~ state.

→ SECTION[#]. CR; 769.211

769.211 **SECTION 211. CONTINUING, EXCLUSIVE JURISDICTION TO MODIFY SPOUSAL SUPPORT ORDER.**

- ③ (1) ~~A~~ A tribunal of this State state issuing a spousal support order consistent with the law of this ~~State~~ state has continuing, exclusive jurisdiction to modify the spousal support order throughout the existence of the support obligation.

subdiv. III to VI

(3)

(2) ~~A~~ A tribunal of this ~~State~~ state may not modify a spousal support order issued by a tribunal of another ~~State~~ state or a foreign country having continuing, exclusive jurisdiction over that order under the law of that ~~State~~ state or foreign country.

(3)

(3) ~~A~~ A tribunal of this ~~State~~ state that has continuing, exclusive jurisdiction over a spousal support order may serve as:

(a) ~~the~~ an initiating tribunal to request a tribunal of another ~~State~~ state to enforce the spousal support order issued in this ~~State~~ state; or

(b) ~~the~~ a responding tribunal to enforce or modify its own spousal support order.

(end of insert 2)

ARTICLE 3

CIVIL PROVISIONS OF GENERAL APPLICATION

SECTION 301. PROCEEDINGS UNDER [ACT].

(a) Except as otherwise provided in this ~~{Aet}~~ [act], this ~~[article]~~ applies to all proceedings under this ~~{Aet}~~ [act].

(b) An individual ~~[petitioner]~~ or a support enforcement agency may initiate a proceeding authorized under this ~~{Aet}~~ [act] by filing a ~~[petition]~~ in an initiating tribunal for forwarding to a responding tribunal or by filing a ~~[petition]~~ or a comparable pleading directly in a tribunal of another ~~State~~ state or a foreign country which has or can obtain personal jurisdiction over the ~~[respondent]~~.

SECTION 302. PROCEEDING BY MINOR PARENT. A minor parent, or a guardian or other legal representative of a minor parent, may maintain a proceeding on behalf of or for the benefit of the minor's child.

SECTION 303. APPLICATION OF LAW OF STATE. Except as otherwise provided in this ~~{Aet}~~ [act], a responding tribunal of this ~~State~~ state shall:

(1) apply the procedural and substantive law generally applicable to similar proceedings originating in this ~~State~~ state and may exercise all powers and provide all remedies available in those proceedings; and

(2) determine the duty of support and the amount payable in accordance with the law and support guidelines of this ~~State~~ state.

SECTION 304. DUTIES OF INITIATING TRIBUNAL.

(a) Upon the filing of a ~~[petition]~~ authorized by this ~~{Aet}~~ [act], an initiating tribunal of this ~~State~~ state shall forward the ~~[petition]~~ and its accompanying documents:

(1) to the responding tribunal or appropriate support enforcement agency in the

responding ~~State~~ state; or

(2) if the identity of the responding tribunal is unknown, to the ~~State~~ state information agency of the responding ~~State~~ state with a request that they be forwarded to the appropriate tribunal and that receipt be acknowledged.

(b) If requested by the responding tribunal, a tribunal of this ~~State~~ state shall issue a certificate or other document and make findings required by the law of the responding ~~State~~ state. If the responding ~~State~~ tribunal is ~~in a foreign country or political subdivision~~, upon request the tribunal of this state shall specify the amount of support sought, convert that amount into the equivalent amount in the foreign currency under applicable official or market exchange rate as publicly reported, and provide any other documents necessary to satisfy the requirements of the responding ~~State~~ foreign tribunal.

SECTION 305. DUTIES AND POWERS OF RESPONDING TRIBUNAL.

(a) When a responding tribunal of this ~~State~~ state receives a [petition] or comparable pleading from an initiating tribunal or directly pursuant to Section 301(b), it shall cause the [petition] or pleading to be filed and notify the [petitioner] where and when it was filed.

(b) A responding tribunal of this ~~State~~ state, to the extent not prohibited by other law, may do one or more of the following:

(1) ~~issue~~ establish or enforce a support order, modify a child-support order, determine the controlling child-support order, or determine parentage of a child;

(2) order an obligor to comply with a support order, specifying the amount and the manner of compliance;

(3) order income withholding;

(4) determine the amount of any arrearages, and specify a method of payment;

(5) enforce orders by civil or criminal contempt, or both;

- (6) set aside property for satisfaction of the support order;
- (7) place liens and order execution on the obligor's property;
- (8) order an obligor to keep the tribunal informed of the obligor's current residential address, electronic-mail address, telephone number, employer, address of employment, and telephone number at the place of employment;
- (9) issue a [bench warrant; capias] for an obligor who has failed after proper notice to appear at a hearing ordered by the tribunal and enter the [bench warrant; capias] in any local and ~~State~~ state computer systems for criminal warrants;
- (10) order the obligor to seek appropriate employment by specified methods;
- (11) award reasonable attorney's fees and other fees and costs; and
- (12) grant any other available remedy.

(c) A responding tribunal of this ~~State~~ state shall include in a support order issued under this [~~Aet~~] [act], or in the documents accompanying the order, the calculations on which the support order is based.

(d) A responding tribunal of this ~~State~~ state may not condition the payment of a support order issued under this [~~Aet~~] [act] upon compliance by a party with provisions for visitation.

(e) If a responding tribunal of this ~~State~~ state issues an order under this [~~Aet~~] [act], the tribunal shall send a copy of the order to the [petitioner] and the [respondent] and to the initiating tribunal, if any.

(f) If requested to enforce a support order, arrears, or judgment or modify a support order stated in a foreign currency, a responding tribunal of this ~~State~~ state shall convert the amount stated in the foreign currency to the equivalent amount in dollars under the applicable official or market exchange rate as publicly reported.

SECTION 306. INAPPROPRIATE TRIBUNAL. If a [petition] or comparable

pleading is received by an inappropriate tribunal of this ~~State~~ state, the tribunal shall forward the pleading and accompanying documents to an appropriate tribunal ~~in~~ of this ~~State~~ state or another ~~State~~ state and notify the [petitioner] where and when the pleading was sent.

SECTION 307. DUTIES OF SUPPORT ENFORCEMENT AGENCY.

Alternative A

(a) A support enforcement agency of this ~~State~~ state, upon request, shall provide services to a [petitioner] in a proceeding under this ~~[Act]~~ [act].

Alternative B

(a) In a proceeding under this [act], a support enforcement agency of this state, upon request:

(1) shall provide services to a [petitioner] residing in a state;

(2) shall provide services to a [petitioner] requesting services through a central authority of a foreign country as described in Section 102(5)(A) or (D); and

101 (3c)(a) or (d)

(3) may provide services to a [petitioner] who is an individual not residing in a state.

End of Alternatives

(b) A support enforcement agency of this ~~State~~ state that is providing services to the [petitioner] shall:

(1) take all steps necessary to enable an appropriate tribunal ~~in this State or another State~~ of this state, another state, or a foreign country to obtain jurisdiction over the [respondent];

(2) request an appropriate tribunal to set a date, time, and place for a hearing;

(3) make a reasonable effort to obtain all relevant information, including information as to income and property of the parties;

(4) within [two] days, exclusive of Saturdays, Sundays, and legal holidays, after receipt of notice in a record from an initiating, responding, or registering tribunal, send a copy of the notice to the [petitioner];

(5) within [two] days, exclusive of Saturdays, Sundays, and legal holidays, after receipt of communication in a record from the [respondent] or the [respondent's] attorney, send a copy of the communication to the [petitioner]; and

(6) notify the [petitioner] if jurisdiction over the [respondent] cannot be obtained.

(c) A support enforcement agency of this ~~State~~ state that requests registration of a child-support order in this ~~State~~ state for enforcement or for modification shall make reasonable efforts:

(1) to ensure that the order to be registered is the controlling order; or

(2) if two or more child-support orders exist and the identity of the controlling order has not been determined, to ensure that a request for such a determination is made in a tribunal having jurisdiction to do so.

(d) A support enforcement agency of this ~~State~~ state that requests registration and enforcement of a support order, arrears, or judgment stated in a foreign currency shall convert the amounts stated in the foreign currency into the equivalent amounts in dollars under the applicable official or market exchange rate as publicly reported.

(e) A support enforcement agency of this ~~State~~ state shall [issue or] request a tribunal of this ~~State~~ state to issue a child-support order and an income-withholding order that redirect payment of current support, arrears, and interest if requested to do so by a support enforcement agency of another ~~State~~ state pursuant to Section 319 of the Uniform Interstate Family Support Act.

(f) This ~~Act~~ act does not create or negate a relationship of attorney and client or other

fiduciary relationship between a support enforcement agency or the attorney for the agency and the individual being assisted by the agency.

Legislative Note: *The state legislature may adopt Alternative A at any time in order to maintain the practice under current law.*

The state legislature may choose to adopt Alternative B if the federal legislation enabling the entry into force of the Convention contains a provision authorizing an option for the state enforcement agency to accept or reject an application for services originating in a foreign country that is not a country defined in Section 102(5)(A) or (D), a foreign reciprocating country or a foreign treaty country respectively.

SECTION 308. DUTY OF [STATE OFFICIAL OR AGENCY].

(a) If the [appropriate state official or agency] determines that the support enforcement agency is neglecting or refusing to provide services to an individual, the [state official or agency] may order the agency to perform its duties under this [Aet] [act] or may provide those services directly to the individual.

(b) The [appropriate state official or agency] may determine that a foreign country or ~~political subdivision~~ has established a reciprocal arrangement for child support with this ~~State~~ state and take appropriate action for notification of the determination.

SECTION 309. PRIVATE COUNSEL. An individual may employ private counsel to represent the individual in proceedings authorized by this [Aet] [act].

SECTION 310. DUTIES OF [STATE INFORMATION AGENCY].

(a) The [Attorney General's Office, State Attorney's Office, State Central Registry or other information agency] is the state information agency under this [Aet] [act].

(b) The state information agency shall:

(1) compile and maintain a current list, including addresses, of the tribunals in this ~~State~~ state which have jurisdiction under this [Aet] [act] and any support enforcement agencies in this ~~State~~ state and transmit a copy to the state information agency of every other ~~State~~ state;

(2) maintain a register of names and addresses of tribunals and support enforcement agencies received from other ~~States~~ states;

(3) forward to the appropriate tribunal in the [county] in this ~~State~~ state in which the obligee who is an individual or the obligor resides, or in which the obligor's property is believed to be located, all documents concerning a proceeding under this ~~[Act]~~ [act] received from ~~an initiating tribunal or the state information agency of the initiating State~~ another state or a foreign country; and

(4) obtain information concerning the location of the obligor and the obligor's property within this ~~State~~ state not exempt from execution, by such means as postal verification and federal or state locator services, examination of telephone directories, requests for the obligor's address from employers, and examination of governmental records, including, to the extent not prohibited by other law, those relating to real property, vital statistics, law enforcement, taxation, motor vehicles, driver's licenses, and social security.

SECTION 311. PLEADINGS AND ACCOMPANYING DOCUMENTS.

(a) In a proceeding under this ~~[Act]~~ [act], a [petitioner] seeking to establish a support order, to determine parentage of a child, or to register and modify a support order of a tribunal of another ~~State~~ state or a foreign country must file a [petition]. Unless otherwise ordered under Section 312, the [petition] or accompanying documents must provide, so far as known, the name, residential address, and social security numbers of the obligor and the obligee or the parent and alleged parent, and the name, sex, residential address, social security number, and date of birth of each child for whose benefit support is sought or whose parentage is to be determined. Unless filed at the time of registration, the [petition] must be accompanied by a copy of any support order known to have been issued by another tribunal. The [petition] may include any other information that may assist in locating or identifying the [respondent].

(b) The [petition] must specify the relief sought. The [petition] and accompanying documents must conform substantially with the requirements imposed by the forms mandated by federal law for use in cases filed by a support enforcement agency.

SECTION 312. NONDISCLOSURE OF INFORMATION IN EXCEPTIONAL CIRCUMSTANCES. If a party alleges in an affidavit or a pleading under oath that the health, safety, or liberty of a party or child would be jeopardized by disclosure of specific identifying information, that information must be sealed and may not be disclosed to the other party or the public. After a hearing in which a tribunal takes into consideration the health, safety, or liberty of the party or child, the tribunal may order disclosure of information that the tribunal determines to be in the interest of justice.

SECTION 313. COSTS AND FEES.

(a) The [petitioner] may not be required to pay a filing fee or other costs.

(b) If an obligee prevails, a responding tribunal of this state may assess against an obligor filing fees, reasonable attorney's fees, other costs, and necessary travel and other reasonable expenses incurred by the obligee and the obligee's witnesses. The tribunal may not assess fees, costs, or expenses against the obligee or the support enforcement agency of either the initiating or responding ~~State~~ state or foreign country, except as provided by other law. Attorney's fees may be taxed as costs, and may be ordered paid directly to the attorney, who may enforce the order in the attorney's own name. Payment of support owed to the obligee has priority over fees, costs, and expenses.

(c) The tribunal shall order the payment of costs and reasonable attorney's fees if it determines that a hearing was requested primarily for delay. In a proceeding under [Article] 6, a hearing is presumed to have been requested primarily for delay if a registered support order is confirmed or enforced without change.

SECTION 314. LIMITED IMMUNITY OF [PETITIONER].

(a) Participation by a [petitioner] in a proceeding under this [Aet] [act] before a responding tribunal, whether in person, by private attorney, or through services provided by the support enforcement agency, does not confer personal jurisdiction over the [petitioner] in another proceeding.

(b) A [petitioner] is not amenable to service of civil process while physically present in this ~~State~~ state to participate in a proceeding under this [Aet] [act].

(c) The immunity granted by this section does not extend to civil litigation based on acts unrelated to a proceeding under this [Aet] [act] committed by a party while physically present in this ~~State~~ state to participate in the proceeding.

SECTION 315. NONPARENTAGE AS DEFENSE. A party whose parentage of a child has been previously determined by or pursuant to law may not plead nonparentage as a defense to a proceeding under this [Aet] [act].

SECTION 316. SPECIAL RULES OF EVIDENCE AND PROCEDURE.

(a) The physical presence of a nonresident party who is an individual in a tribunal of this ~~State~~ state is not required for the establishment, enforcement, or modification of a support order or the rendition of a judgment determining parentage of a child.

(b) An affidavit, a document substantially complying with federally mandated forms, or a document incorporated by reference in any of them, which would not be excluded under the hearsay rule if given in person, is admissible in evidence if given under penalty of perjury by a party or witness residing ~~in another~~ outside this State state.

769.316 (3) (c) A copy of the record of child-support payments certified as a true copy of the original by the custodian of the record may be forwarded to a responding tribunal. The copy is evidence of facts asserted in it, and is admissible to show whether payments were made.

(d) Copies of bills for testing for parentage of a child, and for prenatal and postnatal health care of the mother and child, furnished to the adverse party at least ~~{ten}~~ [10] days before trial, are admissible in evidence to prove the amount of the charges billed and that the charges were reasonable, necessary, and customary.

(e) Documentary evidence transmitted from ~~another~~ outside this State state to a tribunal of this State state by telephone, telecopier, or other electronic means that do not provide an original record may not be excluded from evidence on an objection based on the means of transmission.

(f) In a proceeding under this ~~{Act}~~ [act], a tribunal of this State state shall permit a party or witness residing ~~in another~~ outside this State state to be deposed or to testify under penalty of perjury by telephone, audiovisual means, or other electronic means at a designated tribunal or other location ~~in that State~~. A tribunal of this State state shall cooperate with other tribunals of ~~other States~~ in designating an appropriate location for the deposition or testimony.

(g) If a party called to testify at a civil hearing refuses to answer on the ground that the testimony may be self-incriminating, the trier of fact may draw an adverse inference from the refusal.

(h) A privilege against disclosure of communications between spouses does not apply in a proceeding under this ~~{Act}~~ [act].

(i) The defense of immunity based on the relationship of husband and wife or parent and child does not apply in a proceeding under this ~~{Act}~~ [act].

(j) A voluntary acknowledgment of paternity, certified as a true copy, is admissible to establish parentage of the child.

SECTION 317. COMMUNICATIONS BETWEEN TRIBUNALS. A tribunal of this State state may communicate with a tribunal of ~~another~~ outside this State state ~~or foreign country~~

~~or political subdivision~~ in a record or by telephone, electronic mail, or other means, to obtain information concerning the laws, the legal effect of a judgment, decree, or order of that tribunal, and the status of a proceeding ~~in the other State or foreign country or political subdivision~~. A tribunal of this ~~State~~ state may furnish similar information by similar means to a tribunal ~~of another outside this State state or foreign country or political subdivision~~.

SECTION 318. ASSISTANCE WITH DISCOVERY. A tribunal of this state may:

(1) request a tribunal ~~of another outside this State state~~ to assist in obtaining discovery; and

(2) upon request, compel a person over ~~whom~~ which it has jurisdiction to respond to a discovery order issued by a tribunal ~~of another~~ outside this State state.

SECTION 319. RECEIPT AND DISBURSEMENT OF PAYMENTS.

(1) (a) A support enforcement agency or tribunal of this ~~State~~ state shall disburse promptly any amounts received pursuant to a support order, as directed by the order. The agency or tribunal shall furnish to a requesting party or tribunal of another ~~State state or a foreign country~~ a certified statement by the custodian of the record of the amounts and dates of all payments received.

(2) (b) If neither the obligor, nor the obligee who is an individual, nor the child resides in this ~~State state~~, upon request from the support enforcement agency of this ~~State state~~ or another ~~State state~~, [the support enforcement agency of this ~~State state~~ or] a tribunal of this ~~State state~~ shall:

(a) (1) direct that the support payment be made to the support enforcement agency in the ~~State state~~ in which the obligee is receiving services; and

(b) (2) issue and send to the obligor's employer a conforming income-withholding order or an administrative notice of change of payee, reflecting the redirected payments.

(3) (c) The support enforcement agency of this ~~State state~~ receiving redirected payments

from another ~~State~~ state pursuant to a law similar to subsection (b) shall furnish to a requesting party or tribunal of the other ~~State~~ state a certified statement by the custodian of the record of the amount and dates of all payments received.

✓
ARTICLE 4

ESTABLISHMENT OF SUPPORT ORDER OR DETERMINATION OF PARENTAGE

SECTION 401. [PETITION] TO ESTABLISH SUPPORT ORDER.

Am (a) If a support order entitled to recognition under this ~~[Act]~~ [act] has not been issued, a responding tribunal of this ~~State~~ state with personal jurisdiction over the parties may issue a support order if:

am (1) the individual seeking the order resides ~~in another~~ outside this State state; or

am (2) the support enforcement agency seeking the order is located ~~in another~~ outside this State state.

RC (b) The tribunal may issue a temporary child-support order if the tribunal determines that such an order is appropriate and the individual ordered to pay is:

- (1) a presumed father of the child;
- (2) petitioning to have his paternity adjudicated;
- (3) identified as the father of the child through genetic testing;
- (4) an alleged father who has declined to submit to genetic testing;
- (5) shown by clear and convincing evidence to be the father of the child;
- (6) an acknowledged father as provided by [applicable state law];
- (7) the mother of the child; or
- (8) an individual who has been ordered to pay child support in a previous

proceeding and the order has not been reversed or vacated.

(c) Upon finding, after notice and opportunity to be heard, that an obligor owes a duty of support, the tribunal shall issue a support order directed to the obligor and may issue other orders pursuant to Section 305.

SECTION 402. PROCEEDING TO DETERMINE PARENTAGE. A tribunal of

this state authorized to determine parentage of a child may serve as a responding tribunal in a proceeding to determine parentage of a child brought under this [act] or a law or procedure substantially similar to this [act].

ARTICLE 5 ✓

**ENFORCEMENT OF SUPPORT ORDER OF ANOTHER
STATE WITHOUT REGISTRATION**

SECTION 501. EMPLOYER'S RECEIPT OF INCOME-WITHHOLDING

ORDER OF ANOTHER STATE. An income-withholding order issued in another State state may be sent by or on behalf of the obligee, or by the support enforcement agency, to the person defined as the obligor's employer under [the income-withholding law of this State state] without first filing a [petition] or comparable pleading or registering the order with a tribunal of this State state.

**SECTION 502. EMPLOYER'S COMPLIANCE WITH INCOME-
WITHHOLDING ORDER OF ANOTHER STATE.**

(a) Upon receipt of an income-withholding order, the obligor's employer shall immediately provide a copy of the order to the obligor.

(b) The employer shall treat an income-withholding order issued in another State state which appears regular on its face as if it had been issued by a tribunal of this State state.

(c) Except as otherwise provided in subsection (d) and Section 503, the employer shall withhold and distribute the funds as directed in the withholding order by complying with terms of the order which specify:

(1) the duration and amount of periodic payments of current child support, stated as a sum certain;

(2) the person designated to receive payments and the address to which the payments are to be forwarded;

(3) medical support, whether in the form of periodic cash payment, stated as a sum certain, or ordering the obligor to provide health insurance coverage for the child under a

policy available through the obligor's employment;

(4) the amount of periodic payments of fees and costs for a support enforcement agency, the issuing tribunal, and the obligee's attorney, stated as sums certain; and

(5) the amount of periodic payments of arrearages and interest on arrearages, stated as sums certain.

(d) An employer shall comply with the law of the ~~State~~ state of the obligor's principal place of employment for withholding from income with respect to:

(1) the employer's fee for processing an income-withholding order;

(2) the maximum amount permitted to be withheld from the obligor's income; and

(3) the times within which the employer must implement the withholding order and forward the child-support payment.

SECTION 503. EMPLOYER'S COMPLIANCE WITH TWO OR MORE INCOME-WITHHOLDING ORDERS. If an obligor's employer receives two or more income-withholding orders with respect to the earnings of the same obligor, the employer satisfies the terms of the orders if the employer complies with the law of the ~~State~~ state of the obligor's principal place of employment to establish the priorities for withholding and allocating income withheld for two or more child-support obligees.

SECTION 504. IMMUNITY FROM CIVIL LIABILITY. An employer ~~who~~ that complies with an income-withholding order issued in another ~~State~~ state in accordance with this [article] is not subject to civil liability to an individual or agency with regard to the employer's withholding of child support from the obligor's income.

SECTION 505. PENALTIES FOR NONCOMPLIANCE. An employer ~~who~~ that willfully fails to comply with an income-withholding order issued ~~by~~ in another ~~State~~ state and received for enforcement is subject to the same penalties that may be imposed for noncompliance

with an order issued by a tribunal of this ~~State~~ state.

SECTION 506. CONTEST BY OBLIGOR.

(a) An obligor may contest the validity or enforcement of an income-withholding order issued in another ~~State~~ state and received directly by an employer in this ~~State~~ state by registering the order in a tribunal of this ~~State~~ state and filing a contest to that order as provided in [Article] 6, or otherwise contesting the order in the same manner as if the order had been issued by a tribunal of this ~~State~~ state.

(b) The obligor shall give notice of the contest to:

- (1) a support enforcement agency providing services to the obligee;
- (2) each employer that has directly received an income-withholding order relating to the obligor; and
- (3) the person designated to receive payments in the income-withholding order or, if no person is designated, to the obligee.

SECTION 507. ADMINISTRATIVE ENFORCEMENT OF ORDERS.

(a) A party or support enforcement agency seeking to enforce a support order or an income-withholding order, or both, issued ~~in by a tribunal of another State~~ state or a foreign support order may send the documents required for registering the order to a support enforcement agency of this ~~State~~ state.

(b) Upon receipt of the documents, the support enforcement agency, without initially seeking to register the order, shall consider and, if appropriate, use any administrative procedure authorized by the law of this ~~State~~ state to enforce a support order or an income-withholding order, or both. If the obligor does not contest administrative enforcement, the order need not be registered. If the obligor contests the validity or administrative enforcement of the order, the support enforcement agency shall register the order pursuant to this ~~[Act]~~ [act].

ARTICLE 6

REGISTRATION, ENFORCEMENT, AND MODIFICATION OF SUPPORT ORDER

PART 1. REGISTRATION FOR ENFORCEMENT OF SUPPORT ORDER

SECTION 601. REGISTRATION OF ORDER FOR ENFORCEMENT. A support order or income-withholding order issued ~~in by a tribunal of another State~~ state or a foreign support order may be registered in this state for enforcement.

SECTION 602. PROCEDURE TO REGISTER ORDER FOR ENFORCEMENT.

(a) Except as otherwise provided in Section 706, ~~A~~ a support order or income-withholding order of another ~~State~~ state or a foreign support order may be registered in this ~~State~~ state by sending the following records ~~and information~~ to the [appropriate tribunal] in this ~~State~~ state:

- (1) a letter of transmittal to the tribunal requesting registration and enforcement;
- (2) two copies, including one certified copy, of the order to be registered, including any modification of the order;
- (3) a sworn statement by the person requesting registration or a certified statement by the custodian of the records showing the amount of any arrearage;
- (4) the name of the obligor and, if known:
 - (A) the obligor's address and social security number;
 - (B) the name and address of the obligor's employer and any other source of income of the obligor; and
 - (C) a description and the location of property of the obligor in this ~~State~~ state not exempt from execution; and
- (5) except as otherwise provided in Section 312, the name and address of the obligee and, if applicable, the person to whom support payments are to be remitted.

(b) On receipt of a request for registration, the registering tribunal shall cause the order to be filed as ~~a foreign judgment~~ an order of another state or a foreign country, together with one copy of the documents and information, regardless of their form.

(c) A [petition] or comparable pleading seeking a remedy that must be affirmatively sought under other law of this ~~State~~ state may be filed at the same time as the request for registration or later. The pleading must specify the grounds for the remedy sought.

(d) If two or more orders are in effect, the person requesting registration shall:

(1) furnish to the tribunal a copy of every support order asserted to be in effect in addition to the documents specified in this section;

(2) specify the order alleged to be the controlling order, if any; and

(3) specify the amount of consolidated arrears, if any.

(e) A request for a determination of which is the controlling order may be filed separately or with a request for registration and enforcement or for registration and modification. The person requesting registration shall give notice of the request to each party whose rights may be affected by the determination.

SECTION 603. EFFECT OF REGISTRATION FOR ENFORCEMENT.

(a) A support order or income-withholding order issued in another ~~State~~ state or a foreign support order is registered when the order is filed in the registering tribunal of this ~~State~~ state.

(b) A registered support order issued in another ~~State~~ state or a foreign country is enforceable in the same manner and is subject to the same procedures as an order issued by a tribunal of this ~~State~~ state.

(c) Except as otherwise provided in this ~~article~~ [act], a tribunal of this ~~State~~ state shall recognize and enforce, but may not modify, a registered support order if the issuing tribunal had jurisdiction.

SECTION 604. CHOICE OF LAW.

(a) Except as otherwise provided in subsection (d), the law of the issuing ~~State~~ state or foreign country governs:

(1) the nature, extent, amount, and duration of current payments under a registered support order;

(2) the computation and payment of arrearages and accrual of interest on the arrearages under the support order; and

(3) the existence and satisfaction of other obligations under the support order.

(b) In a proceeding for arrears under a registered support order, the statute of limitation of this ~~State~~ state, or of the issuing ~~State~~ state or foreign country, whichever is longer, applies.

(c) A responding tribunal of this ~~State~~ state shall apply the procedures and remedies of this ~~State~~ state to enforce current support and collect arrears and interest due on a support order of another ~~State~~ state or a foreign country registered in this ~~State~~ state.

(d) After a tribunal of this state or another ~~State~~ state determines which is the controlling order and issues an order consolidating arrears, if any, a tribunal of this ~~State~~ state shall prospectively apply the law of the ~~State~~ state or foreign country issuing the controlling order, including its law on interest on arrears, on current and future support, and on consolidated arrears.

PART 2. CONTEST OF VALIDITY OR ENFORCEMENT

SECTION 605. NOTICE OF REGISTRATION OF ORDER.

(a) When a support order or income-withholding order issued in another ~~State~~ state or a foreign support order is registered, the registering tribunal of this state shall notify the nonregistering party. The notice must be accompanied by a copy of the registered order and the documents and relevant information accompanying the order.

(b) A notice must inform the nonregistering party:

(1) that a registered support order is enforceable as of the date of registration in the same manner as an order issued by a tribunal of this ~~State~~ state;

(2) that a hearing to contest the validity or enforcement of the registered order must be requested within [20] days after notice unless the registered order is under Section 707;

(3) that failure to contest the validity or enforcement of the registered order in a timely manner will result in confirmation of the order and enforcement of the order and the alleged arrearages; and

(4) of the amount of any alleged arrearages.

(c) If the registering party asserts that two or more orders are in effect, a notice must also:

(1) identify the two or more orders and the order alleged by the registering ~~person~~ party to be the controlling order and the consolidated arrears, if any;

(2) notify the nonregistering party of the right to a determination of which is the controlling order;

(3) state that the procedures provided in subsection (b) apply to the determination of which is the controlling order; and

(4) state that failure to contest the validity or enforcement of the order alleged to be the controlling order in a timely manner may result in confirmation that the order is the controlling order.

(d) Upon registration of an income-withholding order for enforcement, the support enforcement agency or the registering tribunal shall notify the obligor's employer pursuant to [the income-withholding law of this ~~State~~ state].

**SECTION 606. PROCEDURE TO CONTEST VALIDITY OR ENFORCEMENT
OF REGISTERED SUPPORT ORDER.**

(a) A nonregistering party seeking to contest the validity or enforcement of a registered support order in this ~~State~~ state shall request a hearing within ~~{20} days after notice of the registration~~ the time required by Section 605. The nonregistering party may seek to vacate the registration, to assert any defense to an allegation of noncompliance with the registered order, or to contest the remedies being sought or the amount of any alleged arrearages pursuant to Section 607.

(b) If the nonregistering party fails to contest the validity or enforcement of the registered support order in a timely manner, the order is confirmed by operation of law.

(c) If a nonregistering party requests a hearing to contest the validity or enforcement of the registered support order, the registering tribunal shall schedule the matter for hearing and give notice to the parties of the date, time, and place of the hearing.

SECTION 607. CONTEST OF REGISTRATION OR ENFORCEMENT.

(a) A party contesting the validity or enforcement of a registered support order or seeking to vacate the registration has the burden of proving one or more of the following defenses:

- (1) the issuing tribunal lacked personal jurisdiction over the contesting party;
- (2) the order was obtained by fraud;
- (3) the order has been vacated, suspended, or modified by a later order;
- (4) the issuing tribunal has stayed the order pending appeal;
- (5) there is a defense under the law of this ~~State~~ state to the remedy sought;
- (6) full or partial payment has been made;
- (7) the statute of limitation under Section 604 precludes enforcement of some or all of the alleged arrearages; or

(8) the alleged controlling order is not the controlling order.

(b) If a party presents evidence establishing a full or partial defense under subsection (a), a tribunal may stay enforcement of ~~the~~ a registered support order, continue the proceeding to permit production of additional relevant evidence, and issue other appropriate orders. An uncontested portion of the registered support order may be enforced by all remedies available under the law of this ~~State~~ state.

(c) If the contesting party does not establish a defense under subsection (a) to the validity or enforcement of ~~the~~ a registered support order, the registering tribunal shall issue an order confirming the order.

SECTION 608. CONFIRMED ORDER. Confirmation of a registered support order, whether by operation of law or after notice and hearing, precludes further contest of the order with respect to any matter that could have been asserted at the time of registration.

PART 3. REGISTRATION AND MODIFICATION OF CHILD-SUPPORT ORDER OF ANOTHER STATE

SECTION 609. PROCEDURE TO REGISTER CHILD-SUPPORT ORDER OF ANOTHER STATE FOR MODIFICATION. A party or support enforcement agency seeking to modify, or to modify and enforce, a child-support order issued in another ~~State~~ state shall register that order in this ~~State~~ state in the same manner provided in ~~Part 4~~ Sections 601 through 608 if the order has not been registered. A [petition] for modification may be filed at the same time as a request for registration, or later. The pleading must specify the grounds for modification.

SECTION 610. EFFECT OF REGISTRATION FOR MODIFICATION. A tribunal of this ~~State~~ state may enforce a child-support order of another ~~State~~ state registered for purposes of modification, in the same manner as if the order had been issued by a tribunal of this ~~State~~

state, but the registered support order may be modified only if the requirements of Section 611 ~~or, 613 or 615~~ have been met.

SECTION 611. MODIFICATION OF CHILD-SUPPORT ORDER OF ANOTHER STATE.

(a) If Section 613 does not apply, ~~except as otherwise provided in Section 615,~~ upon [petition] a tribunal of this ~~State~~ state may modify a child-support order issued in another ~~State~~ state which is registered in this ~~State~~ state if, after notice and hearing, the tribunal finds that:

(1) the following requirements are met:

(A) neither the child, nor the obligee who is an individual, nor the obligor resides in the issuing ~~State~~ state;

(B) a [petitioner] who is a nonresident of this ~~State~~ state seeks modification; and

(C) the [respondent] is subject to the personal jurisdiction of the tribunal of this ~~State~~ state; or

(2) this ~~State~~ state is the ~~State~~ of residence of the child, or a party who is an individual is subject to the personal jurisdiction of the tribunal of this ~~State~~ state, and all of the parties who are individuals have filed consents in a record in the issuing tribunal for a tribunal of this ~~State~~ state to modify the support order and assume continuing, exclusive jurisdiction.

(b) Modification of a registered child-support order is subject to the same requirements, procedures, and defenses that apply to the modification of an order issued by a tribunal of this ~~State~~ state and the order may be enforced and satisfied in the same manner.

(c) ~~Except as otherwise provided in Section 615,~~ a A tribunal of this ~~State~~ state may not modify any aspect of a child-support order that may not be modified under the law of the issuing ~~State~~ state, including the duration of the obligation of support. If two or more tribunals have

issued child-support orders for the same obligor and same child, the order that controls and must be so recognized under Section 207 establishes the aspects of the support order which are nonmodifiable.

cr (3m) (d) In a proceeding to modify a child-support order, the law of the ~~State~~ state that is determined to have issued the initial controlling order governs the duration of the obligation of support. The obligor's fulfillment of the duty of support established by that order precludes imposition of a further obligation of support by a tribunal of this ~~State~~ state.

(4) (e) On the issuance of an order by a tribunal of this ~~State~~ state modifying a child-support order issued in another ~~State~~ state, the tribunal of this ~~State~~ state becomes the tribunal having continuing, exclusive jurisdiction.

cr (5) (f) Notwithstanding subsections (a) through (e) and Section 201(b), a tribunal of this state retains jurisdiction to modify an order issued by a tribunal of this state if:

(1) one party resides in another state; and

(2) the other party resides outside the United States.

SECTION 612. RECOGNITION OF ORDER MODIFIED IN ANOTHER STATE.

If a child-support order issued by a tribunal of this ~~State~~ state is modified by a tribunal of another ~~State~~ state which assumed jurisdiction pursuant to the Uniform Interstate Family Support Act, a tribunal of this ~~State~~ state:

(1) may enforce its order that was modified only as to arrears and interest accruing before the modification;

(2) may provide appropriate relief for violations of its order which occurred before the effective date of the modification; and

(3) shall recognize the modifying order of the other ~~State~~ state, upon registration, for the purpose of enforcement.

SECTION 613. JURISDICTION TO MODIFY CHILD-SUPPORT ORDER OF ANOTHER STATE WHEN INDIVIDUAL PARTIES RESIDE IN THIS STATE.

(a) If all of the parties who are individuals reside in this ~~State~~ state and the child does not reside in the issuing ~~State~~ state, a tribunal of this ~~State~~ state has jurisdiction to enforce and to modify the issuing ~~State's~~ state's child-support order in a proceeding to register that order.

(b) A tribunal of this ~~State~~ state exercising jurisdiction under this section shall apply the provisions of [Articles] 1 and 2, this [article], and the procedural and substantive law of this ~~State~~ state to the proceeding for enforcement or modification. [Articles] 3, 4, 5, 7, and 8 do not apply.

SECTION 614. NOTICE TO ISSUING TRIBUNAL OF MODIFICATION. Within [30] days after issuance of a modified child-support order, the party obtaining the modification shall file a certified copy of the order with the issuing tribunal that had continuing, exclusive jurisdiction over the earlier order, and in each tribunal in which the party knows the earlier order has been registered. A party who obtains the order and fails to file a certified copy is subject to appropriate sanctions by a tribunal in which the issue of failure to file arises. The failure to file does not affect the validity or enforceability of the modified order of the new tribunal having continuing, exclusive jurisdiction.

PART 4. REGISTRATION AND MODIFICATION OF FOREIGN

CHILD-SUPPORT ORDER

SECTION 615. JURISDICTION TO MODIFY CHILD-SUPPORT ORDER OF FOREIGN COUNTRY ~~OR~~ POLITICAL SUBDIVISION.

(a) Except as otherwise provided in Section 711, If if a foreign country ~~or political~~ subdivision that is a State will not or may not modify its order lacks or refuses to exercise jurisdiction to modify its child-support order pursuant to its laws, a tribunal of this State state may assume jurisdiction to modify the child-support order and bind all individuals subject to the

personal jurisdiction of the tribunal whether ~~or not~~ the consent to modification of a child-support order otherwise required of the individual pursuant to Section 611 has been given or whether the individual seeking modification is a resident of this ~~State~~ state or of the foreign country ~~or political subdivision~~.

(b) An order issued by a tribunal of this state modifying a foreign child-support order pursuant to this section is the controlling order.

SECTION 616. PROCEDURE TO REGISTER CHILD-SUPPORT ORDER OF FOREIGN COUNTRY FOR MODIFICATION. A party or support enforcement agency seeking to modify, or to modify and enforce, a foreign child-support order not under the Convention may register that order in this state under Sections 601 through 608 if the order has not been registered. A [petition] for modification may be filed at the same time as a request for registration, or at another time. The [petition] must specify the grounds for modification.

Insert 3

SECTION#. RC; Subchapter VII of Chapter 769

(B) (CS)
CHAPTER 769(CS)
SUBCHAPTER VII(CS)
SUPPORT PROCEEDING UNDER ~~CR~~
CONVENTION

ARTICLE 7

DETERMINATION OF PARENTAGE

SUPPORT PROCEEDING UNDER CONVENTION

~~SECTION 701. PROCEEDING TO DETERMINE PARENTAGE.~~ A court of this State authorized to determine parentage of a child may serve as a responding tribunal in a proceeding to determine parentage brought under this [Act] or a law or procedure substantially similar to this [Act].

all plain
text
throughout

769.701

~~SECTION 701.~~ DEFINITIONS. In this ~~chapter~~:

sub chapter

(1) "Application" means a request under the Convention by an obligee or obligor, or on behalf of a child, made through a central authority for assistance from another central authority.

(2) "Central authority" means the entity designated by the United States or a foreign country described in Section 102(5)(D) to perform the functions specified in the Convention.

(3) "Convention support order" means a support order of a tribunal of a foreign country described in Section 102(5)(D).

(4) "Direct request" means a [petition] filed by an individual in a tribunal of this state in a proceeding involving an obligee, obligor, or child residing outside the United States.

(5) "Foreign central authority" means the entity designated by a foreign country described in Section 102(5)(D) to perform the functions specified in the Convention.

(6) "Foreign support agreement":

(a) ~~is~~ means an agreement for support in a record that:

1. ~~is~~ enforceable as a support order in the country of origin;

2. ~~is~~ has been:

a. ~~is~~ formally drawn up or registered as an authentic instrument by a

foreign tribunal; or

B.

769.101 (3c) (d)

(3m) "Department" means the department of children and families.

b. ~~the~~ authenticated by, or concluded, registered, or filed with a foreign tribunal; and

3. ~~the~~ may be reviewed and modified by a foreign tribunal; and

(b) ~~the~~ includes a maintenance arrangement or authentic instrument under the Convention.

(7) "United States central authority" means the ~~Secretary of the United States Department of Health and Human Services.~~ ^{federal}

769. 702 ~~SECTION 702. APPLICABILITY.~~ This ~~article~~ applies only to a support proceeding under the Convention. In such a proceeding, if a provision of this ~~article~~ is inconsistent with [Articles] 1 through 6, this ~~article~~ controls.

769. 703 ~~SECTION 703. RELATIONSHIP OF [GOVERNMENTAL ENTITY] TO UNITED STATES CENTRAL AUTHORITY.~~ The [governmental entity] of this state is recognized as the agency designated by the United States central authority to perform specific functions under the Convention.

769. 704 ~~SECTION 704. INITIATION BY [GOVERNMENTAL ENTITY] OF SUPPORT PROCEEDING UNDER CONVENTION.~~

(1) ~~In a support proceeding under this article, the [governmental entity] of this state shall:~~

(a) ~~the~~ transmit and receive applications; and

(b) ~~the~~ initiate or facilitate the institution of a proceeding regarding an application in a tribunal of this state.

(2) ~~The following support proceedings are available to an obligee under the Convention:~~

(a) (1) recognition or recognition and enforcement of a foreign support order;

(b) (2) enforcement of a support order issued or recognized in this state;

(C) ~~by~~ establishment of a support order if there is no existing order, including, if necessary, determination of parentage of a child;

(d) ~~an~~ establishment of a support order if recognition of a foreign support order is refused under Section 708(2), (4), or (9) → A. 769.708(2)(b), (d), or (i)

(e) ~~by~~ modification of a support order of a tribunal of this state; and

(f) ~~by~~ modification of a support order of a tribunal of another state or a foreign country.

(B) (3) ~~by~~ The following support proceedings are available under the Convention to an obligor against which there is an existing support order:

(a) ~~by~~ recognition of an order suspending or limiting enforcement of an existing support order of a tribunal of this state;

(b) ~~by~~ modification of a support order of a tribunal of this state; and

(c) ~~by~~ modification of a support order of a tribunal of another state or a foreign country.

(B) (4) ~~by~~ A tribunal of this state may not require security, bond, or deposit, however described, to guarantee the payment of costs and expenses in proceedings under the Convention.

769.705 ~~SECTION 705~~ DIRECT REQUEST.

(B) (1) ~~by~~ A [petitioner] may file a direct request seeking establishment or modification of a support order or determination of parentage of a child. In the proceeding, the law of this state applies.

(B) (2) ~~by~~ A [petitioner] may file a direct request seeking recognition and enforcement of a support order or support agreement. In the proceeding, Sections 706 through 713 apply. →

(B) (3) ~~by~~ In a direct request for recognition and enforcement of a Convention support order or foreign support agreement:

A. 769.706 to 769.713

(a) ~~a~~ a security, bond, or deposit is not required to guarantee the payment of costs and expenses; and

(b) ~~a~~ an obligee or obligor that in the issuing country has benefited from free legal assistance is entitled to benefit, at least to the same extent, from any free legal assistance provided for by the law of this state under the same circumstances.

(3) (4) ~~A~~ ~~(petitioner)~~ filing a direct request is not entitled to assistance from the [governmental entity].

(5) ~~This~~ [article] does not prevent the application of laws of this state that provide simplified, more expeditious rules regarding a direct request for recognition and enforcement of a foreign support order or foreign support agreement.

769.76 ~~SECTION 769.76~~ REGISTRATION OF CONVENTION SUPPORT ORDER.

(1) (a) Except as otherwise provided in this ^{subchapter} [article], a party who is an individual or a support enforcement agency seeking recognition of a Convention support order shall register the order in this state as provided in [Article] 6.

(2) (b) Notwithstanding Sections 311 and 602(a), a request for registration of a Convention support order must be accompanied by:

ss. 769.311 and 769.602 (1)

(a) ~~a~~ a complete text of the support order [or an abstract or extract of the support order drawn up by the issuing foreign tribunal, which may be in the form recommended by the Hague Conference on Private International Law];

(keep brackets)

(b) ~~a~~ a record stating that the support order is enforceable in the issuing country;

(c) ~~if~~ if the respondent did not appear and was not represented in the proceedings in the issuing country, a record attesting, as appropriate, either that the respondent had proper notice of the proceedings and an opportunity to be heard or that the respondent had proper notice of the support order and an opportunity to be heard in a challenge or appeal on fact or law before

a tribunal;

(d) ~~(4)~~ a record showing the amount of arrears, if any, and the date the amount was calculated;

(e) ~~(5)~~ a record showing a requirement for automatic adjustment of the amount of support, if any, and the information necessary to make the appropriate calculations; and

(f) ~~(6)~~ if necessary, a record showing the extent to which the applicant received free legal assistance in the issuing country.

(B) (3) ~~(4)~~ A request for registration of a Convention support order may seek recognition and partial enforcement of the order.

(B) (4) ~~(5)~~ A tribunal of this state may vacate the registration of a Convention support order without the filing of a contest under Section 707 only if, acting on its own motion, the tribunal finds that recognition and enforcement of the order would be manifestly incompatible with public policy.

A. 769. 707

(B) (5) ~~(6)~~ The tribunal shall promptly notify the parties of the registration or the order vacating the registration of a Convention support order.

769. 707 ~~SECTION 707~~ **CONTEST OF REGISTERED CONVENTION SUPPORT ORDER.**

(B) (1) ~~(2)~~ Except as otherwise provided in this ~~article~~ ^{subchapter}, Sections 605 through 608 apply to a contest of a registered Convention support order.

ss. 769. 605 to 769. 608

(B) (2) ~~(3)~~ A party contesting a registered Convention support order shall file a contest not later than 30 days after notice of the registration, but if the contesting party does not reside in the United States, the contest must be filed not later than 60 days after notice of the registration.

(B) (3) ~~(4)~~ If the nonregistering party fails to contest the registered Convention support order by the time specified in ~~subsection (2)~~ ^{sub. (2)}, the order is enforceable.

- 769.708
- (4) ~~(4)~~ A contest of a registered Convention support order may be based only on grounds set forth in ~~Section 708~~. The contesting party bears the burden of proof.
- (5) ~~(4)~~ In a contest of a registered Convention support order, a tribunal of this state:
- (a) ~~(4)~~ is bound by the findings of fact on which the foreign tribunal based its jurisdiction; and
- (b) ~~(4)~~ may not review the merits of the order.
- (6) ~~(4)~~ A tribunal of this state deciding a contest of a registered Convention support order shall promptly notify the parties of its decision.
- (7) ~~(4)~~ A challenge or appeal, if any, does not stay the enforcement of a Convention support order unless there are exceptional circumstances.

769.708 ~~SECTION 708~~ **RECOGNITION AND ENFORCEMENT OF REGISTERED CONVENTION SUPPORT ORDER.**

- sub. (2)
- (1) ~~(4)~~ Except as otherwise provided in ~~subsection (1)~~, a tribunal of this state shall recognize and enforce a registered Convention support order.
- (2) ~~(4)~~ The following grounds are the only grounds on which a tribunal of this state may refuse recognition and enforcement of a registered Convention support order:
- (a) ~~(4)~~ recognition and enforcement of the order is manifestly incompatible with public policy, including the failure of the issuing tribunal to observe minimum standards of due process, which include notice and an opportunity to be heard;
- (b) ~~(4)~~ the issuing tribunal lacked personal jurisdiction consistent with ~~Section 201~~; A. 769.201
- (c) ~~(4)~~ the order is not enforceable in the issuing country;
- (d) ~~(4)~~ the order was obtained by fraud in connection with a matter of procedure;
- (e) ~~(4)~~ a record transmitted in accordance with ~~Section 706~~ lacks authenticity or integrity; A. 769.706

(f) ~~(e)~~ a proceeding between the same parties and having the same purpose is pending before a tribunal of this state and that proceeding was the first to be filed;

(g) ~~(f)~~ the order is incompatible with a more recent support order involving the same parties and having the same purpose if the more recent support order is entitled to recognition and enforcement under this ~~law~~ in this state; → chapter

(h) ~~(g)~~ payment, to the extent alleged arrears have been paid in whole or in part;

(i) ~~(h)~~ in a case in which the respondent neither appeared nor was represented in the proceeding in the issuing foreign country:

1. ~~(i)~~ if the law of that country provides for prior notice of proceedings, the respondent did not have proper notice of the proceedings and an opportunity to be heard; or

2. ~~(j)~~ if the law of that country does not provide for prior notice of the proceedings, the respondent did not have proper notice of the order and an opportunity to be heard in a challenge or appeal on fact or law before a tribunal; or

(j) ~~(i)~~ the order was made in violation of ~~Section 704~~. → A. 769.711

② (3) ~~(j)~~ If a tribunal of this state does not recognize a Convention support order under subsection (b)(2), (4), (6), or (9): → sub. (2)(b), (d), (f), or (i)

(a) ~~(k)~~ the tribunal may not dismiss the proceeding without allowing a reasonable time for a party to request the establishment of a new Convention support order; and

(b) ~~(l)~~ the department shall take all appropriate measures to request a child-support order for the obligee if the application for recognition and enforcement was received under ~~Section 704~~. → department
→ A. 769.704

769.709 ~~SECTION 709~~ PARTIAL ENFORCEMENT. If a tribunal of this state does not recognize and enforce a Convention support order in its entirety, it shall enforce any severable part of the order. An application or direct request may seek recognition and partial enforcement

of a Convention support order.

769.710 ~~SECTION 710~~ **FOREIGN SUPPORT AGREEMENT.**

subs. (3) and (4)

(1) ~~(1)~~ Except as otherwise provided in subsections (c) and (d), a tribunal of this state shall recognize and enforce a foreign support agreement registered in this state.

(2) ~~(2)~~ An application or direct request for recognition and enforcement of a foreign support agreement must be accompanied by:

(a) ~~(a)~~ a complete text of the foreign support agreement; and

(b) ~~(b)~~ a record stating that the foreign support agreement is enforceable as a decision in the issuing country.

(3) ~~(3)~~ A tribunal of this state may vacate the registration of a foreign support agreement only if, acting on its own motion, the tribunal finds that recognition and enforcement would be manifestly incompatible with public policy.

(4) ~~(4)~~ In a contest of a foreign support agreement, a tribunal of this state may refuse recognition and enforcement of the agreement if it finds:

(a) ~~(a)~~ recognition and enforcement of the agreement is manifestly incompatible with public policy;

(b) ~~(b)~~ the agreement was obtained by fraud or falsification;

(c) ~~(c)~~ the agreement is incompatible with a support order involving the same parties and having the same purpose in this state, another state, or a foreign country if the support order is entitled to recognition and enforcement under this ~~law~~ in this state; or

chapter

(d) ~~(d)~~ the record submitted under subsection (b) lacks authenticity or integrity.

sub. (2)

(5) ~~(5)~~ A proceeding for recognition and enforcement of a foreign support agreement must be suspended during the pendency of a challenge to or appeal of the agreement before a tribunal of another state or a foreign country.

769.74
~~SECTION 711~~ MODIFICATION OF CONVENTION CHILD SUPPORT

ORDER.

- ⑧ (1) ~~(a)~~ A tribunal of this state may not modify a Convention child support order if the obligee remains a resident of the foreign country where the support order was issued unless:
- (a) ~~(i)~~ the obligee submits to the jurisdiction of a tribunal of this state, either expressly or by defending on the merits of the case without objecting to the jurisdiction at the first available opportunity; or
- (b) ~~(ii)~~ the foreign tribunal lacks or refuses to exercise jurisdiction to modify its support order or issue a new support order.

- ⑧ (2) ~~(b)~~ If a tribunal of this state does not modify a Convention child support order because the order is not recognized in this state, Section 708(c) applies. → A. 769.708(3)

769.712 ~~SECTION 712~~ PERSONAL INFORMATION; LIMIT ON USE. Personal information gathered or transmitted under this ~~article~~ may be used only for the purposes for which it was gathered or transmitted.

769.713 ~~SECTION 713~~ RECORD IN ORIGINAL LANGUAGE; ENGLISH TRANSLATION. A record filed with a tribunal of this state under this ~~article~~ must be in the original language and, if not in English, must be accompanied by an English translation.

subchapter

(and of insert 3)



ARTICLE 8

INTERSTATE RENDITION

SECTION 801. GROUNDS FOR RENDITION.

(a) For purposes of this [article], “governor” includes an individual performing the functions of governor or the executive authority of a ~~State~~ state covered by this [Aet] [act].

(b) The governor of this ~~State~~ state may:

(1) demand that the governor of another ~~State~~ state surrender an individual found in the other ~~State~~ state who is charged criminally in this ~~State~~ state with having failed to provide for the support of an obligee; or

(2) on the demand of the governor of another ~~State~~ state, surrender an individual found in this ~~State~~ state who is charged criminally in the other ~~State~~ state with having failed to provide for the support of an obligee.

(c) A provision for extradition of individuals not inconsistent with this [Aet] [act] applies to the demand even if the individual whose surrender is demanded was not in the demanding ~~State~~ state when the crime was allegedly committed and has not fled therefrom.

SECTION 802. CONDITIONS OF RENDITION.

(a) Before making a demand that the governor of another ~~State~~ state surrender an individual charged criminally in this ~~State~~ state with having failed to provide for the support of an obligee, the governor of this ~~State~~ state may require a prosecutor of this ~~State~~ state to demonstrate that at least [60] days previously the obligee had initiated proceedings for support pursuant to this [Aet] [act] or that the proceeding would be of no avail.

(b) If, under this [Aet] [act] or a law substantially similar to this [Aet] [act], the governor of another ~~State~~ state makes a demand that the governor of this ~~State~~ state surrender an individual charged criminally in that ~~State~~ state with having failed to provide for the support of a

child or other individual to whom a duty of support is owed, the governor may require a prosecutor to investigate the demand and report whether a proceeding for support has been initiated or would be effective. If it appears that a proceeding would be effective but has not been initiated, the governor may delay honoring the demand for a reasonable time to permit the initiation of a proceeding.

(c) If a proceeding for support has been initiated and the individual whose rendition is demanded prevails, the governor may decline to honor the demand. If the [petitioner] prevails and the individual whose rendition is demanded is subject to a support order, the governor may decline to honor the demand if the individual is complying with the support order.

ARTICLE 9

MISCELLANEOUS PROVISIONS

SECTION 901. UNIFORMITY OF APPLICATION AND CONSTRUCTION. In applying and construing this ~~Uniform Act~~ uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among ~~States~~ states that enact it.

[SECTION 902. TRANSITIONAL PROVISION. This [act] applies to proceedings begun on after [the effective date of this act] to establish a support order or determine parentage of a child or to register, recognize, enforce, or modify a prior support order, determination, or agreement, whenever issued or entered.]

[SECTION 902 903. SEVERABILITY CLAUSE. If any provision of this {Act} [act] or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this {Act} [act] which can be given effect without the invalid provision or application, and to this end the provisions of this {Act} [act] are severable.]

SECTION 905 904. REPEALS. The following are repealed:

- (1)
- (2)
- (3)

SECTION 903 905. EFFECTIVE DATE. This [act] takes effect